



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Tuesday, 2nd March, 1948

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF PAKISTAN

Tuesday, the 2nd March, 1948

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Five of the Clock, Mr. President (Quaid-i-Azam Mohammad Ali Jinnah) in the Chair.

DRAFT RULES OF PROCEDURE, ETC., OF THE CONSTITUENT ASSEMBLY OF PAKISTAN

Mr. President (Quaid-i-Azam Mohammad Ali Jinnah): The House will now give formal consideration to the following motion moved by Mr Tamizuddin Khar on the 24th February, 1948 :—

“ That this Assembly do adopt the draft Rules of Procedure as approved by the Committee on Rules of Procedure, powers of President, etc.”

To that various amendments were moved and we adjourned in order to consider the amendment of Khwaja Shahabuddin, of which notice has been sent. Therefore, we now consider the amendment of Mr. Shahabuddin and we would consider the amendments to his amendment in their proper order.

Khwaja Shahabuddin (East Bengal : Muslim): Sir, I beg to move :

‘ That after Chapter VI the following new Chapter be inserted :

‘ CHAPTER VI-A ’.

Sir, it is a long amendment and it has been circulated. With your permission, it may be taken as read.

Mr. President : No. The whole amendment must be read out in the House.

Khwaja Shahabuddin : Yes, Sir.

“ CHAPTER VI-A

41A. The procedure for making provision as to the constitution of the Dominion or for amending the Indian Independence Act shall be the same as that of a Bill.

41B. *Publication of Bills before Introduction.*—The President may order the publication of any Bill (together with the Statement of Objects and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again.

41C(1). *Publication of Bills after Introduction.*—Any member desiring to move for leave to introduce a Bill shall give notice of his intention and shall together with the notice submit a copy of the Bill and a full Statement of the Objects and Reasons.

(2) The period of notice of a motion for leave to introduce a Bill under this rule shall be 10 days or if the President so directs a shorter period.

41D. *Motion for leave to Introduce.*—If a motion for leave to introduce a Bill is opposed the President, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate put the question.

41E. *Publication after introduction.*—As soon as may be after a Bill has been introduced the Bill, unless it has already been published shall be published in the Gazette.

41F. *Motions after introduction.*—When a Bill is introduced or on some subsequent occasion the member in charge may make one of the following motions in regard to his Bill, namely :—

- (a) that it be taken into consideration by the Assembly either at once or at some future day to be then specified ; or
- (b) that it be referred to a Select Committee ; or
- (c) that it be circulated for the purpose of eliciting opinion thereon :

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for 3 days before the day on which the motion is made, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the motion to be made.

[Khwaja Shahabuddin.]

41G. *Discussion of Principle of Bills.*—(1) On the day on which any such motion is made or on any subsequent day to which the discussion thereof is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.

(2) At this stage no amendments to the Bill may be moved, but—

- (a) if the member in charge moves that his Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a Select Committee or be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion, or
- (b) if the member in charge moves that his Bill be referred to a Select Committee, any member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

(3) Where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried, and the Bill is circulated in accordance with that direction and opinions are received thereon, the member in charge, if he wishes to proceed with his Bill thereafter, must move that the Bill be referred to a Select Committee, unless the President, in the exercise of his power to suspend this rule, allows a motion to be made that the Bill be taken into consideration.

41H. *Persons by whom motions in respect of bills may be made.*—(1) No motion that Bill be taken into consideration or be passed shall be made by any member other than the member in charge of the Bill and no motion that a Bill be referred to a Select Committee or be circulated or re-circulated for the purpose of eliciting opinion thereon shall be made by any member other than the member in charge except by way of amendment to a motion made by the member in charge.

(2) For the purpose of this rule 'member in charge of the Bill' means the member who has introduced the bill, provided that the President may permit any other member to act as the member in charge.

41I. *Composition of Select Committees.*—The members of Select Committees including the Chairman of the Committee shall be elected by the Assembly by a motion proposed by the member in charge.

41J. *Quorum of Select Committee.*—(1) At the time of the appointment by the Assembly of the members of the Select Committee the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be fixed by the Assembly.

(2) If at the time fixed for any meeting of the Select Committee, or if at any time during any such meeting, the quorum of members fixed by the Assembly is not present, the chairman of the Committee shall either suspend the meeting until a quorum is present or adjourn the Committee to some future day.

(3) Where the Select Committee has been adjourned in pursuance of sub-paragraph (2) on two successive dates fixed for meeting of the Committee, the chairman shall report the fact to the Assembly.

41K. *Reports by Select Committee.*—(1) After publication in the Gazette of a Bill, as required by the rules, the Select Committee to which the Bill has been referred shall make a report thereon.

(2) Such report shall be made by such time as may be fixed by the Assembly.

(3) Reports may be either preliminary or final.

(4) The Select Committee shall in their report state whether or not in their judgment the Bill has been so altered as to require republication, whether the publication directed by the rules has taken place, and the date on which the publication has taken place.

(5) If any member of a Select Committee desires to record a minute of dissent on any point, he must sign the report stating that he does so subject to his minute of dissent, and must at the same time hand in his minute.

41L. *Presentation of Report.*—(1) The report of the Select Committee on a Bill shall be presented to the Assembly by the member in charge of the Bill.

(2) In presenting a report the member in charge shall, if he makes any remarks, confine himself to a brief statement of fact, but there shall be no debate at this stage.

41M. *Printing and Publication of Reports.*—(1) The Secretary shall cause every report of a Select Committee to be printed, and a copy of the report shall be made available for the use of every member of the Assembly. The report with the amended Bill, shall be published in the Gazette.

(2) If any member is unacquainted with English, the Secretary shall also, if requested, cause the report to be translated for his use into such vernacular language as the President may direct.

41N. *Procedure after presentation of report.*—(1) After the presentation of the final report of a Select Committee on a Bill, the member in charge may move—

- (a) that the Bill as reported by the Select Committee be taken into consideration: Provided that any member of the Assembly may object to its being so taken into consideration if a copy of the report has not been made available for the use of member for seven days, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the report to be taken into consideration; or

(b) that the Bill as reported by the Select Committee be re-committed either—

- (i) without limitation, or
- (ii) with respect to particular clauses or amendments, only or,
- (iii) with instructions to the Select Committee to make some particular or additional provision in the Bill; or

(c) that the Bill as reported by the Select Committee be re-circulated for the purpose of obtaining further opinion thereon.

(2) If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be recommitted or re-circulated for the purpose of obtaining further opinion thereon.

41O. *Notice of Amendments.*—(1) If notice of a proposed amendment has not been given two clear days before the day on which the Bill is to be considered, any member may object to the moving of the amendment, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed and a copy thereof to be made available for the use of every member.

(3) If any member present is unacquainted with English, the Secretary shall also, if requested, cause every such notice to be translated for his use into such other language as the President may direct.

41P. *Order of Amendments.*—Amendments shall ordinarily be considered in the order of the clauses of the Bill to which they respectively relate; and in respect of any such clause a motion shall be deemed to have been made, “That this clause stand part of the Bill”.

41Q. *Submission of Bills Clause by Clause.*—Notwithstanding anything in the rules it shall be in the discretion of the President, when a motion that a Bill be taken into consideration has been carried, to submit the Bill, or any part of the Bill, to the Assembly clause by clause. When this procedure is adopted, the President shall call each clause separately, and, when the amendments relating to it have been dealt with, shall put the question: “That this clause (or, as the case may be, that this clause as amended) stand part of the Bill”.

41R. *Passing of Bills.*—(1) When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the member in charge may at once move that the Bill be passed.

(2) If any amendment of the Bill is made, any member may object to any motion being made, on the same day, that the Bill be passed, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the motion to be made.

(3) Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day.

(4) To such a motion no amendment may be moved which is not either formal or consequential upon an amendment made after the Bill was taken into consideration.

41S. *Withdrawal of Bill.*—The member who has introduced a Bill may at any stage of the Bill move for leave to withdraw the Bill; and if such leave is granted, no further motion may be made with reference to the Bill.

41T. *Authentication of Bills.*—When a Bill is passed by the Assembly, a copy thereof shall be signed by the President.”

Mr. President : Amendment moved :

“That after Chapter VI the following new Chapter be inserted :—

‘ CHAPTER VI-A

41A. The procedure for making provision as to the constitution of the Dominion or for amending the Indian Independence Act shall be the same as that of a Bill.

41B. *Publication of Bills before introduction.*—The President may order the publication of any Bill (together with the Statement of Objects and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again.

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(2) The period of notice of a motion for leave to introduce a Bill under this rule shall be 10 days or if the President so directs a shorter period.

41D. *Motion for leave to introduce.*—If a motion for leave to introduce a Bill is opposed the President, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate put the question.

41E. *Publication after introduction.*—As soon as may be after a Bill has been introduced, the Bill unless it has already been published shall be published in the Gazette.

[Mr. President.]

41F. *Motions after introduction.*—When a Bill is introduced or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely:—

- (a) that it be taken into consideration by the Assembly either at once or at some future day to be then specified; or
- (b) that it be referred to a Select Committee; or
- (c) that it be circulated for the purpose of eliciting opinion thereon:

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for 3 days before the day on which the motion is made, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the motion to be made.

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(4) The Select Committee shall in their report state whether or not in their judgement the Bill has been so altered as to require republication, whether the publication directed by the rules has taken place, and the date on which the publication has taken place.

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(b) that the Bill as reported by the Select Committee be re-committed either—

(i) without limitation, or

(ii) with respect to particular clauses or amendments, only or,

(iii) with instructions to the Select Committee to make some particular or additional provision in the Bill; or

(c) that the Bill as reported by the Select Committee be re-circulated for the purpose of obtaining further opinion thereon.

(2) If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be re-committed or re-circulated for the purpose or obtaining further opinion thereon.

41O. *Notice of Amendments.*—(1) If notice of a proposed amendment has not been given two clear days before the day on which the Bill is to be considered, any member may object to the moving of the amendment, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed and a copy thereof to be made available for the use of every member.

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(2) If any amendment of the Bill is made, any member may object to any motion being made, on the same day, that the Bill be passed, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the motion to be made.

(3) Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day.

(4) To such a motion no amendment may be moved which is not either formal or consequential upon an amendment made after the Bill was taken into consideration.

41S. *Withdrawal of Bill.*—The member who has introduced a Bill may at any stage of the Bill move for leave to withdraw the Bill; and if such leave is granted, no further motion may be made with reference to the Bill.

41T. *Authentication of Bills.*—When a Bill is passed by the Assembly, a copy thereof shall be signed by the President."

Mr. Abdulla-al Mahmood (East Bengal : Muslim) : 1 beg to move :

"That in rule 41-A of the proposed Chapter VI-A, after the words 'Indian Independence Act' the words 'and the Government of India Act, 1935,' be inserted."

Khwaja Shahabuddin : I accept this amendment moved by Mr. Abdulla-al Mahmood. In fact there was a mistake in my original amendment and I accept it.

Mr. President : The question is :

"That in rule 41-A of the proposed Chapter VI-A, after the words 'Indian Independence, Act' the words 'and the Government of India Act, 1935,' be inserted."

The motion was adopted.

Mr. Abdulla-al Mahmood : Sir, I beg to move :

"That in sub-rule (1) of rule 41-C of the proposed Chapter VI-A, for the present heading namely, 'Publication of Bills after Introduction' the following heading be substituted:—

'Notice of Motion for Leave to Introduce Bills'."

Then I have another amendment to move also.

Mr. President : Amendment may be moved one by one.

Khwaja Shahabuddin : Sir, I accept the amendment.

Mr. President : The question is :

"That in sub-rule (1) of rule 41-C of the proposed Chapter VI-A for the present heading, namely, 'Publication of Bills after Introduction' the following heading be substituted :

'Notice of Motion for Leave to Introduce Bills'."

The motion was adopted.

Mr. Nur Ahmed (East Bengal : Muslim) : Sir, I beg leave to move :

"That in sub-rule (2) of rule 41-C of the proposed Chapter VI-A, for the words and figures '10 days' the words 'fifteen days' be substituted."

Sir, the period of ten days given in sub-rule (2) of rule 41-C, is too short a period and it says "the period of notice of a motion for leave to introduce a Bill under this rule shall be 10 days or if the President so directs, a shorter period."

Sir, I think it should be extended to a period of 15 days because the period of ten days is too short.

As this procedure shall apply to the enactment of an important Bill, namely, the Pakistan Constitution Act, I hope Honourable Member will accept this amendment of mine.

Mr. President : Motion moved :

"That in sub-rule (2) of rule 41-C of the proposed Chapter VI-A, for the words and figures '10 days' the words 'fifteen days' be substituted."

The Honourable Mr. Abdul Hamid : (East Bengal : Muslim): Sir, may I say a few words in regard to this amendment? For the introduction of the Bill in the Assembly, I do not think, Sir, it is so very necessary that time should be extended to 15 days. I think ten days' notice is more than sufficient. By merely allowing a Member to introduce a Bill, the House commits itself to nothing.

Khwaja Shahabuddin : Sir, I agree with my Honourable friend, Mr. Abdul Hamid, that introduction is only a first stage, but there are provisions in the rules by which the Bill can be taken immediately after the various stages have passed. Therefore, Sir, I accept the amendment of Mr. Nur Ahmed.

Mr. President : The question is :

"That in sub-rule (2) of rule 41-C of the proposed Chapter VI-A, for the words and figures '10 days' the words 'fifteen days' be substituted."

The motion was adopted.

Mr. Dharendra Nath Datta (East Bengal : General) : Sir, I move :

“ That in line 2 of rule 41-F of the proposed Chapter VI-A after for the word ‘ charge ’ the following words be inserted :—

‘ having given the notice prescribed in sub-rule (2) ’.”

Khawaja Shahabuddin : How, can you move that amendment ? There is no sub-rule (2) for the present.

Mr. Dharendra Nath Datta : Sir, I want to move the other amendment No. 6 standing in my name along with this amendment.

Mr. President : No, I will allow you to move only one at a time.

Khan Sardar Bahadur Khan (N.-W.F.P. : Muslim) : He cannot move this amendment then. He should move the other amendment first.

Mr. Dharendra Nath Datta : Sir, in order to make my position clear, I wish to move the other amendment along with this amendment.

Mr. President : All right, you move.

Mr. Dharendra Nath Datta : Sir, I move :

“ That the existing rule 41-F of the proposed Chapter VI-A be re-numbered as sub-rule (1) and after the proviso the following be added as sub-rule (2) :—

‘ (2) Save as provided in clause (a) of sub-rule (1) of rule 41-N the period of notice of a motion to take a Bill into consideration shall be ten days and of a motion that the Bill be referred to a Select Committee or circulated for the purpose of eliciting opinion thereon, five days unless the President, in exercise of his power to suspend this sub-rule allows the motion to be made at a shorter notice ’.”

Sir, rule 41-F runs thus :

“ When a Bill is introduced on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely—

(a) that it be taken into consideration by the Assembly either at once or at some future day to be then specified ; or

(b) that it be referred to a Select Committee ; or

(c) that it be circulated for the purpose of eliciting opinion thereon ;

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for 3 days before the day on which the motion is made, and such objection shall prevail, unless the President in the exercise of his power to suspend this rule, allows the motion to be made.”

Sir, my motion is that the period of notice shall be only five days because in that case the Bill will not be at once taken into consideration. The object of this motion will be that the Bill be referred to a Select Committee or the Bill be circulated for the purpose of eliciting opinion thereon. My amendment is that the Member in charge shall give notice of five days before the Bill is taken into consideration.

This is the procedure that is followed in the various Legislatures. My submission before the House is that if a motion like this is to be moved by the Member in charge that the Bill be taken into consideration, he must give notice of 10 days. If there is a motion for referring the Bill to a Select Committee, he must give notice of 5 days. I hope Members will agree with me that notice of some period must be given and the period of notice that has been suggested is not much, and the President has been given the power to suspend this sub-rule.

Sir, I have now moved my amendments Nos. 3 and 6.

Mr. President : Amendments moved :

“That the existing rule 41-F of the proposed Chapter VI-A be re-numbered as sub-rule (1) and after the proviso the following be added as sub-rule (2)

Save as provided in clause (a) of sub-rule (1) of rule 41-N the period of notice of a motion to take a Bill into consideration shall be ten days and of a motion that the Bill be referred to Select Committee or circulated for the purpose of eliciting opinion thereon, five days unless the President, in exercise of his power to suspend this sub-rule allows the motion to be made at a shorter notice’.”;

and

“That in line 2 of rule 41-F of the proposed Chapter VI-A after the word ‘charge’ the following words be inserted :

‘having giving the notice prescribed in sub-rule (2)’.”

Both the amendments are now before the House for discussion.

The Honourable Mr. Abdul Hamid : Sir, it has already been stated that the Members are to give certain period of notice at the time of the introduction of the Bill. That period of notice plus the period allowed here of three days will be sufficient for the members to study the Bill and I do not see any reason for the further extension of the period. If we allow this extension of the period of notice, it will help those who want to frustrate the passing of a Bill by dilatory methods. I do not think any further concession is necessary so far as giving of notice is concerned. The Bill will be before them for days. 18 days is a fairly good period to study a Bill. Therefore, I strongly object to the acceptance or passing of this amendment.

***Mr. Mohammed Ali (East Bengal : Muslim) :** Sir, I do not agree with the observations made by Mr. Abdul Hamid. There are three stages of a Bill—the first reading, the second reading and the third reading. In all other Legislatures there is a provision for giving notice of all these stages. In the first stage, as amended by Mr. Nur Ahmed, there is a notice for introduction. Mr. Dharendra Datta’s amendment wants to make provision for giving notice of the second and the third stage and if his amendment is accepted, it will improve the procedure. It is necessary, if the Bill is to be considered clause by clause in the House, that there should be sufficient notice to the Members, so that they can study the provisions of the Bill and come prepared. Therefore, if the amendment is accepted by the House, it will improve the procedure and will be at par with the provisions of other Legislatures in India and in Pakistan. I suggest that the amendment be accepted.

Alhajj Muhammed Hashim Gazder (Sind : Muslim) : Sir, I would like to point out that the Honourable Mover’s amendment No. 6 is connected with rule 41-N, which stage arrives after the Select Committee has made its report. In the case of the rule that we are now considering, we are only at this stage concerned with the first stage of the consideration of the Bill. If we pass this amendment, there might be confusion.

Khwaja Shahabuddin : Sir, I would like to point out to my friend, Mr. Mohammed Ali, that as far as these rules are concerned, we are making them for the Constituent Assembly and not for the Constituent Assembly (Legislature). Therefore, such Bills and such legislation will be taken up on very seldom occasions in this House. As has been pointed out by my friend, Mr. Abdul Hamid, we have already provided 15 days’ notice for the introduction of the Bill and therefore the notice that I have provided in my amendment of 3 days is sufficient. I oppose both the amendments, Nos. 3 and 6.

Mr. President : I will put amendment No. 6 first. The question is :

"That the existing rule 41-F of the proposed Chapter VI-A be re-numbered as sub-rule (1) and after the proviso the following be added as sub-rule (2) :

'(2) Save as provided in clause (a) of sub-rule (1) of rule 41-N the period of notice of a motion to take a Bill into consideration shall be ten days and of a motion that the Bill be referred to a Select Committee or circulated for the purpose of eliciting opinion thereon, five days unless the President, in exercise of his power to suspend this sub-rule allows the motion to be made at a shorter notice'."

The motion was negatived.

Mr. President : I will now put amendment No. 3. The question is :

"That in line 2 of rule 41-F of the proposed Chapter VI-A after the word 'charge' the following words be inserted :

'having given the notice prescribed in sub-rule (2)'."

The motion was negatived.

***Mr. Dharendra Nath Datta :** Mr. President, I move :

"That in the proviso to rule 41-F of the proposed Chapter VI-A, in line 5, for the figure '3' the figure '7' be substituted."

It has been provided in the proposed Rule 41-F that in the case of all the three categories mentioned in this rule, no such motion shall be made unless copies of the Bill have been made available for the use of the Members and no Member may object to such a motion unless copies have been made available for 3 days before the day on which the motion is made. My amendment is that instead of three days, let it be seven days. Copies of the Bill must be made available to the Members 7 days before the Bill comes before the House so that they may be able to study the Bill. Here the proviso says that it should be made available before three days.

Mr. President : Amendment moved :

"That in the proviso to rule 41-F of the proposed Chapter VI-A, in line 5, for the figure '3' the figure '7' be substituted."

Khwaja Shahabuddin : Sir, I oppose the amendment.

Mr. President : The question is :

"That in the proviso to rule 41-F of the proposed Chapter VI-A, in line 5, for the figure '3' the figure '7' be substituted."

The motion was negatived.

***Mr. Dharendra Nath Datta :** I move :

"That in the proviso to rule 41-F of the proposed Chapter VI-A, for the words "for 3 days before the day on which the motion is made," occurring in line 5, the following be substituted:—

'for seven days before a motion under clause (a) or for three days before a motion under clause (b) or (c) is made'."

The object of my amendment is this. Sir, as you see there are three motions which can be made : that the Bill be taken into consideration by the Assembly, that the Bill be referred to a Select Committee, or that it be circulated for the purpose of eliciting opinion thereon. My amendment says that if the motion be that the Bill be taken into consideration copies of the Bill must be made available for seven days, but if the motion be, that the Bill be referred to a Select Committee or that it be circulated for the purpose of eliciting opinion thereon, then copies of the Bill must be made available for three days. I made a distinction between these two motions because if the motion, be referred to a Select Committee or be circulated for the purpose of eliciting opinion thereon, then, Sir, availability for three days may be deemed sufficient

[**Mr. Dharendra Nath Datta**]

but in case the motion be, that the Bill be taken into consideration, the availability of the Bill for three days will not be deemed sufficient and hence I want to say that instead of three days it will be seven days. That is the object of my amendment. I think, Sir, the House will understand my viewpoint and will accept my amendment.

The Honourable Mr. Abdul Hamid : I would like to know whether, after we have turned down the other amendments of the Honourable Member, this amendment is in order ?

Mr. Dharendra Nath Datta : I submit, this is in order.

***Khwaja Shahabuddin** : Sir, in order to avoid any misunderstanding in the minds of the Members I may say that I consider that occasions for legislation in this House will be very rare and therefore I have taken all reasonable care to provide reasonable time for giving notice and any extension of this time will unnecessarily delay any measures that may be brought up before this House, and, therefore, Sir, I am unable to accept any suggestion to extend the periods provided in my amendment. I hope my friend will not move this amendment because it will be on very rare occasions that a notice of the Bill that he is going to introduce will be required and I have already provided three days' notice which ought to be considered sufficient. Sir, I hope that not only amendment No. 5 but the other motions standing in his name, in which he intends to ask for an extension of time, will not be moved.

Mr. Dharendra Nath Datta : I do not intend to follow up this motion. I beg leave, Sir, to withdraw it.

The motion was, with the leave of the House, withdrawn.

***Mr. Dharendra Nath Datta** : Mr. President, Sir, I move :

"That in sub-rule (3) of rule 41-G of the proposed Chapter VI-A, the words 'unless the President, in the exercise of his power to suspend this rule, allows a motion to be made that the Bill be taken into consideration' be omitted."

Mr. President, Sir, if you be pleased to look into rule 41-G, which deals with the discussion of the principle of Bills, sub-rule (3) lays down that where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried, and the Bill is circulated in accordance with that direction and opinions are received thereon, the member in charge, if he wishes to proceed with his Bill thereafter, must move that the Bill be referred to a Select Committee, unless the President, in the exercise of his power to suspend this rule, allows a motion to be made that the Bill be taken into consideration.

My submission, Sir, is this : If the Bill is circulated for the purpose of eliciting opinions thereon and the opinions are received thereon then the only possible motion that can be moved by the mover is that the Bill be referred to a Select Committee and the clauses of the Bill cannot be taken into consideration at once. Of course, Sir, in sub-rule (2) it is laid down that the member may move that the Bill be referred to a Select Committee but, Sir, power has been given to the President that instead of moving a motion that the Bill be referred to a Select Committee the President may allow the member to move a motion that the Bill be taken into consideration. My submission before the House is this that if a Bill has been circulated for the purpose of eliciting opinion thereon that shows that the principle of the Bill also has not been accepted at the initial stage and then the member in charge of the Bill, Sir, can only move that the Bill be referred to a Select Committee. It must go to a Select Committee.

***Khawaja Shahabuddin :** The only thing that I want to point out is that if my friend looks up the rules of the different Legislatures, and especially the Legislature to which he belongs, namely, the Bengal Legislative Assembly, he will find that everywhere this rule is provided to meet an emergency, though my own experience in Bengal is that this power has never been used by the President. But such a saving clause must be there to meet an emergency. Therefore, Sir, I oppose the amendment.

Mr. President : The question is :

“That in sub-rule (3) of rule 41-C of the proposed Chapter VI-A, the words ‘unless the President, in the exercise of his power to suspend this rule, allows a motion to be made that the Bill be taken into consideration’ be omitted.”

The motion was negatived.

Mr. Abdulla-al Mahmood : Sir, I beg to move :

“That for rule 41-I of the proposed Chapter VI-A the following be substituted :—

‘41-I. (1) The members of the Committee including the Chairman shall be appointed by the Assembly when the motion that the Bill be referred is made or in the case of a motion made by way of amendment under clause (a) of sub-rule (2) of rule 41-G, at any subsequent meeting.

(2) The committee shall consist of not more than 9 members and not less than 5 members.

(3) Casual vacancies in the Committee shall be filled as soon as possible after they occur by nomination by the President.

(4) If the Chairman is not present at any meeting of the Committee the members of the Committee shall elect their own Chairman.

(5) In the case of an equality of votes the Chairman shall have a second or casting vote.

(6) A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them’.”

Mr. President : Motion moved :

“That for rule 41-I of the proposed Chapter VI-A the following be substituted :—

‘41 I. (1) The members of the Committee including the Chairman shall be appointed by the Assembly when the motion that the Bill be referred is made or in the case of a motion made by way of amendment under clause (a) of sub-rule (2) of rule 41-G, at any subsequent meeting.

(2) The Committee shall consist of not more than 9 members and not less than 5 members.

(3) Casual vacancies in the Committee shall be filled as soon as possible after they occur by nomination by the President.

(4) If the Chairman is not present at any meeting of the Committee the members of the Committee shall elect their own Chairman.

(5) In the case of an equality of votes the Chairman shall have a second or casting vote.

(6) A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them’.”

Khawaja Shahabuddin : Sir, I admit that Mr. Abdulla-al Mahmood’s amendment is an improvement on that of mine and I accept it.

Mr. President : The question is :

“That for rule 41-I of the proposed Chapter VI-A the following be substituted :—

‘41-I. (1) The members of the Committee including the Chairman shall be appointed by the Assembly when the motion that the Bill be referred is made or in the case of a motion made by way of amendment under clause (a) of sub-rule (2) of rule 41-G, at any subsequent meeting.

(2) The Committee shall consist of not more than 9 members and not less than 5 members

(3) Casual vacancies in the Committee shall be filled as soon as possible after they occur by nomination by the President.

(4) If the Chairman is not present at any meeting of the Committee the members of the Committee shall elect their own Chairman.

(5) In the case of an equality of votes the Chairman shall have a second or casting vote.

(6) A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them’.”

The motion was adopted.

***Mr. Dharendra Nath Datta :** Sir, I move :

“That at the end of rule 41-I of the proposed Chapter VI-A, the following be added :—
‘unless, on a motion in that behalf carried by the Assembly, a Bill stands referred to a Committee of the whole Assembly’.”

My motion amounts to this, Sir—and that is the procedure followed in almost all the assemblies and that is a salutary procedure—that the House may convert itself into the Select Committee and often times it is done and it has got its good objects. I think, Sir, provision for a Select Committee is there but the whole House may convert itself into a Select Committee. That is the object of my amendment.

Mr. President : Amendment moved :

“That at the end of rule 41-I of the proposed Chapter VI-A, the following be added :—
‘unless, on a motion in that behalf carried by the Assembly, a Bill stands referred to a Committee of the whole Assembly’.”

The amendment moved is open to discussion.

Khwaja Shahabuddin : Sir, I am sorry, I am unable to accept it because the purport of the motion is that unless a Member sends his Bill to a Select Committee, automatically the whole House is turned into a committee of the House. His Bill is referred to it. I think if this is accepted it would again delay the procedure and passage of the Bill and therefore I am unable to accept it.

Mr. President : The question is :

“That at the end of rule 41-I of the proposed Chapter VI-A, the following be added :—
‘unless, on a motion in that behalf carried by the Assembly, a Bill stands referred to a Committee of the whole Assembly’.”

The motion was negatived.

Mr. President : Now amendment No. 10.

Khawaja Shahabuddin : Sir, after accepting the amendment of Mr. Abdullah-al Mahmood, i.e., No. 8, it does not arise. It has already been provided for.

Mr. Dharendra Nath Datta : I beg to submit that in view of the fact that provision for this has been made by amendment No. 8, I do not move this amendment :

Mr. Abdulla-al Mahmood : Sir, I beg leave to move :

“That for sub-rule (4) of rule 41-K of the proposed Chapter VI-A, the following be substituted as sub-rules (4) and (5) and the present sub-rule (5) be re-numbered as sub-rule (6) :—

‘(4) The Select Committee shall in their report state whether the publication of the Bill directed by the rules has taken place and the date on which the publication has taken place.

(5) Where a Bill has been altered the Select Committee may, if they think fit, include in their report a recommendation to the member in charge of the Bill that his next motion should be a motion for circulation, or, where the Bill has already been circulated, for re-circulation’.”

Khawaja Shahabuddin : Sir, I accept it.

Mr. President : The question is :

“That for sub-rule (4) of rule 41-K of the proposed Chapter VI-A, the following be substituted as sub-rules (4) and (5) and the present sub-rule (5) be re-numbered as sub-rule (6) :—

‘(4) The Select Committee shall in their report state whether the publication of the Bill directed by the rules has taken place and the date on which the publication has taken place.

(5) Where a Bill has been altered the Select Committee may, if they think fit, include in their report a recommendation to the member in charge of the Bill that his next motion should be a motion for circulation, or, where the Bill has already been circulated, for re-circulation’.”

The motion was adopted.

Mr. President : Now amendment No. 12.

Mr. Dharendra Nath Datta : I beg to submit, Sir, that in view of the fact that the House has decided to accept amendment No. 9 I do not want to move my amendment.

Mr. Nur Ahmad : Sir, I beg to move :

“ That after sub-rule (5) of rule 41-K of the proposed Chapter VI-A, the following be added as sub-rule (6) :—

‘ (6) Every such minute of dissent must be confined to a discussion of matter contained in the report and must be free from personal remarks ’.”

Sir, the sub-rule (5), to which I have moved this amendment, runs as follows :—

“ If any member of a Select Committee desires to second a minute of dissent on any point, he must sign the report stating that he does so subject to his note of dissent and must at the same time hand in his minute.”

Sir, my amendment is not a new thing. The sub-rule (5) of the rule 59 of the Bengal Legislative Council Procedure Rules published in 1942 contains exactly the similar sub-rule.

Sir, in order to confine the Member who desires to record a minute of dissent to the subject matter of the Bill this amendment is very necessary. It is also necessary in order to avoid personal references in the note of dissent. It is essential for the best interest that no dissentient Member shall go wide of the mark in his note of dissent and shall make personal attack. It will be a salutary safeguard against that. I, therefore, hope that it will be accepted by the House.

Mr. President : Amendment moved :

“ That after sub-rule (5) of rule 41-K of the proposed Chapter VI-A, the following be added as sub-rule (6) :—

‘ (6) Every such minute of dissent must be confined to a discussion of matter contained in the report and must be free from personal remarks ’.”

Khwaja Shahabuddin : Sir, I accept it.

The Honourable Mr. Abdul Hamid : Sir, I do not think this addition is at all necessary. Sir, the committees have worked so long without this addition. The note of dissent always refers to matters which we have discussed in the Select Committee and I do not see what is the special reason that the Honourable Mover can have to add these words. As regards personal references, without this addition we have been carrying on in the Legislature and the Select Committees and there has been no occasion where Members make any personal remarks. Members merely express their differences of opinion in the minute of dissent and I do not see any very particular reason for the acceptance of this amendment. Members selected by the House for the Select Committee are Honourable Members and they ordinarily observe the canons of decorum. What can be the reason for assuming that they will not—our nominees will not—satisfy the high standard of dignity that is set for Honourable Members? If this amendment is accepted, I submit, Sir, it will bring reflection on their own nominees.

Alhajj Muhammed Hashim Gazder : This amendment seems to be absolutely unnecessary. I do not know why it has been moved and I am surprised why it has been accepted. I do not think we should burden our rules. I, therefore, oppose it.

Mr. Dharendra Nath Datta : Sir, I respectfully differ with the views expressed by my friends over there, because in the matter of legislation I think sufficient protection should be given to the Honourable Members, because it may mean sometimes words of caution for members making a personal attack. Therefore, Sir, if the amendment is made, what is the harm in accepting it. We, of course, know that every Member is responsible; at the same time, if we provide a rule to that effect, what is the harm

Mr. President : What would you do if this rule is not observed in the minute of dissent ?

Khan Sardar Bahadur Khan : Then we will have to provide a penalty clause to enforce this rule.

Mr. President : What I want to know is what would you do if the dissenting member goes beyond the scope of this rule and does make personal remarks ?

Mr. Abdulla-al Mahmood : May I submit, Sir ? When a report is submitted before the House, it becomes the subject matter of the House. Now, Sir, it is within the discretion of the President to set right a wrong if there is anything incorporated in the report in a disorderly manner or conduct. I have not much experience of the Legislature, but I think the President has got the power to ask the Member to withdraw. The power is there all right. Therefore, it is giving more caution to the Member. I submit, Sir, that it is merely a reminder for the Honourable Member so that he might not misuse his own position.

Khwaja Shahabuddin : I do not hold any strong opinion about it. If the majority of the Members think that this amendment is not necessary, it may be deleted, but, Sir, the reason why I accept it is this. Those who have got experience of a strong opposition in the House know that the Members of the Opposition do try to incorporate extraneous matters in the report, leaving aside the subject matter of the Bill. To protect that and protect other Members from personal attacks I thought that we might accept Mr. Nur Ahmed's amendment, but if that is the general opinion of the House I have nothing to say.

Mr. President : Is there any precedent ?

Khwaja Shahabuddin : Sir, I believe in the Rules of the Bengal Legislative Assembly, we had a provision like that.

Mr. Dharendra Nath Datta : No, Sir. I have got the Rules here.

Khwaja Shahabuddin : This is what I was given to understand.

Mr. Dharendra Nath Datta : There is no such provision.

Mr. President : I must draw the attention of the House to two matters. Firstly, I do not know whether there is any precedent in any Legislature, and, secondly, if anybody has committed a breach of the rules, what machinery is provided to deal with such a Member.

Khwaja Shahabuddin : I think my friend will withdraw it.

Mr. Nur Ahmed : Sir, I withdraw my amendment.

Mr. President : Has the Honourable Member leave of the House to withdraw his amendment

The amendment was, by leave of the House, withdrawn.

Mr. Dharendra Nath Datta : Sir, I move :

“That after rule 41-N of the proposed Chapter VI-A, the following rule be added as rule 41 NN :—

‘41 NN. *Proposal of Amendments.*—When a motion that a Bill be taken into consideration has been carried, any Member may propose an amendment of the Bill’.”

I submit that this was probably an omission. When a motion is moved any Member is entitled to move an amendment. So I propose this amendment.

Khwaja Shahabuddin : I accept it, Sir.

Mr. President : The question is :

“That after rule 41 N of the proposed Chapter VI A, the following rule be added as rule 41 NN :—

‘41 NN. *Proposal of Amendments.*—When a motion that a Bill be taken into consideration has been carried, any Member may propose an amendment of the Bill’.”

The motion was adopted.

Prof. Raj Kumar Chakraverty (East Bengal : General) : Sir, I beg to move :

“That in sub-rule (2) of rule 41 O of the proposed Chapter VI A, the words ‘if time permits’ be omitted.”

Sir, this is with regard to the notice of amendments which the Members are entitled to have. As the rule has been proposed, it says in sub-rule (2) that the Secretary shall, if time permits, cause every notice of a proposed amendment to be printed and a copy thereof to be made available for the use of every Member. Sir, I submit that the notice of amendment should be made available to the Members previously and the House should not be taken un-awares with regard to any amendment. In sub-rule 1 of rule 41 it has been laid down that the notice of a proposed amendment has to be given two clear days before the day on which the Bill is to be considered. That being so and that being accepted, there is no reason why the notice of an amendment should not be given previously. Therefore, Sir, I move that the words “if time permits” be omitted.

Khwaja Shahabuddin : May I draw the attention of the mover that it is only to meet emergency? The President in exercise of his powers may suspend the rule. There may be notice shorter than two days by the permission of the President. Ordinarily, it will always be supplied. It is only a saving clause and, therefore, I am unable to accept it.

Mr. President : The question is :

“That in sub-rule (2) of rule 41-O of the proposed Chapter VI A, the words ‘if time permits’ be omitted.”

The motion was adopted.

The Honourable Mr. Liaquat Ali Khan : Sir, there appears to be some 6 P.M. mistake. It is the Noes who had it.

An Honourable Member : Sir, the Honourable Premier does not want you to reverse your decision. The implication of what he says is that he calls for Division.

Mr. President : I think he should have asked for the Division as soon as the announcement was made. Does he want me to put the question again?

Several Voices : Yes, Sir.

Mr. President : I put the question again. The question is :

“ That in sub-rule (2) of Rule 41-O of the proposed Chapter VI A, the words ‘ if time permits ’ be omitted .”

The motion was negatived.

All the amendments to the amendment inserting the new Chapter have been disposed of. I now put the amendment of Khwaja Shahabuddin as amended to the vote of the House. The question is :

“ That the motion moved by Khwaja Shahabuddin, as amended, be adopted.”

The motion, as amended, was adopted.

Mr. Abdulla-al Mahmood : Sir, I beg to move :

“ That the rules and sub-rules of the Report be re-numbered or re-lettered as necessitated by the amendments made in the Report and that all references therein to the numbering or lettering of rules be corrected as required by such re-numbering or re-lettering.”

Mr. President : The question is :

“ That the rules and sub-rules of the Report be re-numbered or re-lettered as necessitated by the amendments made in the Report and that all references therein to the numbering or lettering of rules be corrected as required by such re-numbering or re-lettering.”

Mr. Tamizuddin : Sir, this is an amendment to my motion. I accept it.

The motion was adopted.

Mr. President : Now the question is :

“ That the Rules of Procedure as approved by the Committee appointed by the Assembly on Rules of Procedure, powers of the President, etc., as amended by the Assembly be adopted.”

The motion was adopted.

ELECTION OF MEMBERS TO THE STEERING COMMITTEE, FINANCE COMMITTEE AND THE CREDENTIALS COMMITTEE

Mr. President (Quaid-i-Azam Mohammad Ali Jinnah) : I have to inform Honourable Members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees which are to be set up under the Rules just adopted by the Assembly.

	No. of members to be elected	Date for nomination	Date for election
1. Steering Committee	7	4-3-1948	6-3-1948
2. Finance Committee	4	4-3-1948	8-3-1948
3. Credentials Committee	5	4-3-1948	8-3-1948

The nominations for all the three Committees will be received in the Notice Office up to 12 Noon on the dates mentioned for the purpose. The elections, which will be conducted in accordance with the Regulations for the holding of elections by means of the single transferable vote, will be held in the Deputy Secretary's Room No. 22 in the Assembly Building between the hours of 10-30 A.M. and 1 P.M.

Khan Sardar Bahadur Khan (N.-W.F.P. : Muslim) : May I know, Sir, whether the Committees mentioned by your in your announcement will be elected by the Constituent Assembly or a Legislative Assembly ?

Mr. President : I do not quite follow the Honourable Member.

Khan Sardar Bahadur Khan (N.-W.F.P.; Muslim) : I understand that these Committees are to be elected by the Constituent Assembly sitting as Constitution-making body.

Mr. President : By whom are they going to be set up? You are the Constituent Assembly.

Khan Sardar Bahadur Khan : May I know, Sir, whether on the dates the elections are to be held, the House will hold its sitting as Constituent Assembly or Dominion Parliament.

Mr. President : I have made an announcement that you will have these Committees and on these dates elections will take place and therefore they will be elected by the Assembly. These Committees are to be set up under the Rules. This is what the rule says :

“42. *Steering Committee*.—(1) A Steering Committee shall be set up for the duration of the Assembly and shall consist initially of seven members to be elected by the Assembly in accordance with the principle of proportional representation by means of the single transferable vote.”

Now I am only announcing that the dates for nominations and elections will be such and such, that elections will take place in such and such a place. These committees are already mentioned in the Rules.

Khan Sardar Bahadur Khan : I wanted to know whether the elections will be held by the Constituent Assembly or the Legislative Assembly.

Mr. President : It will be elected by you. You will elect them by your votes, the single transferable vote. I am merely announcing the time and place. That is all.

THE INDIAN INDEPENDENCE (AMENDMENT) BILL

The Honourable Mr. Liaquat Ali Khan (Prime Minister and Minister for Defence) : Sir, I beg leave to introduce the Bill to amend the Indian Independence Act of 1947.

Sir, it might seem that I was taking Honourable Members by surprise when I move this motion, but in fact it is not so. Before now, there was no rule prescribed according to which legislation could be undertaken by the Constituent Assembly, but the Bill, leave for introduction of which I have sought, has been in the hands of the Honourable Members since 22nd February and therefore I hope that there would not be any objection taken to my making this motion. This is not a novel procedure, but as a matter of fact those who have the experience of the Central Legislative Assembly of undivided India, are aware that on a number of occasions, Bills were introduced, taken into consideration and passed without their being on the notice paper. Therefore, Sir, I take this opportunity of moving this motion.

Mr. President : Motion moved :

“That leave be granted to introduce the Bill to amend the Indian Independence Act, 1947.”

The motion was adopted.

Honourable Mr. Liaquat Ali Khan : Sir, I introduce the Bill.

Sir, may I make the next motion?

Mr. President : Yes, please.

The Honourable Mr. Liaquat Ali Khan : Sir, I beg to move :

“ That the Bill to amend the Indian Independence Act, 1947, be taken into consideration.”

Sir, the Honourable Members must have noticed that what is sought to be done by means of this Bill, is to extend the period from 31st March, 1948 to 31st March, 1949 in respect of powers, special powers that have been given to the Governor-General under Rule 9 of the Indian Independence Act, 1947. When the Indian Independence Act was passed, it was considered by the British Parliament that in the initial stages, it would be necessary to arm the Governor-General with special powers because there will be a number of changes that will have to be made in the Government of India Act, 1935, and certain other regulations and legislations. In the case of Pakistan, we are a State only six and a half months old. We had to start from scratch on the 15th of August and, therefore, I feel that it is absolutely necessary to extend the period of these special powers for another year. We may some time find ourselves in difficulty if the Governor-General does not have these special powers and it would not be possible every time to convene a meeting of the Constituent Assembly whenever one was faced with some difficulty or the other with regard to running of the State. I may point out, to the Hon'ble Members of this House, section 9 says :

“ That the Governor-General by order shall make such provision as appears to him to be necessary or expedient. (a) for bringing the provision of this Act into effective operation.”

Then, Sir, I do not want to read all the paragraphs but I will only draw the attention of the Honourable Members to matters that may arise even after the 31st March, 1948. I would draw the attention of the Honourable Members to sub-para. (b) :

“ (b) For removing difficulties arising in connection with the transition to the provisions of this Act.”

Then, Sir, (h) :—

(h) “ for regulating the monetary system and any matters pertaining to the Reserve Bank of India ”.

And, Sir, this is (i) :—

“ (i) so far as it appears necessary or expedient in connection with any of the matters aforesaid for varying the constitution powers, or jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or other authorities therein.”

These are, in fact, wide powers and they were intended to be wide powers and I think we should continue these powers for another year. It would not be possible to convene a meeting of the Constituent Assembly every time and the same difficulty was experienced before. Apart from other reasons, the distance alone between the Eastern and Western Zones of Pakistan would make it very difficult to convene a meeting of the Constituent Assembly at a moment's notice and quite a lot of harm may be done to the State, if immediate action was not taken. Therefore, Sir, I hope that the House would accept my motion and pass this Bill when I make the next motion.

Mr. President : Motion moved :

“ That the Bill to amend the Indian Independence Act, 1947, be taken into consideration.”

***Mr. Dharendra Nath Datta** (East Bengal : General) : Mr. President, Sir, I rise to oppose this motion. I know, Sir, under section 9 of the Indian Independence Act, the power has been given to the Governor-General to make any orders. Sir, this is what is mentioned in sub-section (1) of section 9 of the Indian Independence Act :—

“ The Governor-General shall by order make such provision as appears to him to be necessary or expedient—

(a) for bringing the provisions of this Act into effective operation ;

(b) for dividing between the new Dominions, and between the new Provinces, to be constituted under this Act, the powers, rights, property, duties and liabilities of the Governor-General in Council or, as the case may be, of the relevant Provinces which, under this Act, are to cease to exist ;

(c) for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, and the Orders in Council rules and other instruments made thereunder, in their application to the separate new Dominions ;

(d) for removing difficulties arising in connection with the transition to the provisions of this Act.”

Sir, these are the powers which have been given to the Governor-General by this section and they have been extended upto the 31st day of March, 1948.

Sir, I oppose this motion on principle. These powers cannot be extended any longer. Now, these powers have been given to the Members of the Constituent Assembly and if any additions to, omissions from, or adaptations and modifications of the Government of India Act, 1935, are deemed necessary, the Members of the Constituent Assembly, *i.e.*, we shall exercise these powers. These powers, Sir, cannot be extended and given to the Governor-General any longer as it is the Constituent Assembly that should have the powers for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935. Of late, Sir, there has been a tendency that orders have been passed making additions to and subtractions from the Government of India Act, 1935. We have felt and really there has been some encroachment upon the Provincial Autonomy. We have found that what was the Central Department and what was provided in List II of the VII Schedule, has been taken away and introduced in List III, *i.e.*, in the Concurrent List. This is making encroachment upon the Provincial Autonomy.

I think it is a very wide power and on principle I oppose it. If this power is to be exercised, it shall be exercised by this House which is the supreme authority and sovereign authority. It cannot be exercised any longer by the Government. That power was given to the Government up to the 31st March only. Sir, I oppose it on principle.

The Honourable Sardar Abdur Rab Khan Nishtar (Minister for Communications) : Mr. President, Sir, I think there is some misunderstanding in the mind of the Honourable Member about the real object of the amendment. He seems to think that if the House passes this Bill, it will be an encroachment upon the powers of this House and that this House will be deprived of certain powers that it already exercises. I would respectfully submit that it is not so.

[The Honourable Sardar Abdur Rab Khan Nishtar]

There is no idea to encroach upon the powers of this House. This House is a sovereign body with full powers. As a matter of fact, if I draw his attention to a proviso in clause 4 of section 9, I hope his doubts will be set at rest. Sub-clause (4) of section 9 reads thus :

“Any orders made under this section, whether before or after the appointed day, shall have effect—

(a) up to the appointed day, in British India ;

(b) on and after the appointed day, in the new Dominion or Dominions concerned ; and

(c) outside British India, or as the case may be, outside the new Dominion or Dominions concerned, to such extent, whether before, on or after the appointed day, as a law of the Legislature of the Dominion or Dominions concerned would have on or after the appointed day, but shall, in the case of each of the Dominions, be subject to the same powers of repeal and amendment as laws of the Legislature of that Dominion.”

I would submit that so far as the powers of this House when it sits as a Legislature are concerned, they have been amply safeguarded. This section was incorporated in the Indian Independence Act in view of the fact that partition was going to be carried out in a hurried manner and it was naturally expected that in carrying out this partition many difficulties will arise and probably it will not be possible for the Government to deal with them in a regular manner. Therefore, for the immediate solution of those difficulties immediate orders will be necessary.

I will just point out an instance for the consideration of the Members of this House. An adaptation order was passed by the Governor-General of the united India under this section and afterwards we found that so far as those adaptations were concerned, they were defective in many respects and another adaptation order had to be passed. If we had not done so, most of the orders that have been passed and most of the actions that had been taken would have been absolutely illegal. Difficulties arise from time to time. The object of section 9 was to overcome the difficulties of the transitional period. Unfortunately the transitional period has been extended on account of the developments which were beyond our control. Hence the necessity to extend the life of the section, I hope, therefore, my friends over there will appreciate the position of the Government and that of the Governor-General. It is only in the interests of the smooth running of the Government and to overcome the difficulties that come in the way of the proper administration of Pakistan that these powers are being vested in the Governor-General. Considering, therefore, the day-to-day difficulties that confront the Government and the State, I hope, my friend will withdraw his opposition and support the Bill as proposed by the Honourable the Leader of the House.

The Honourable Mr. Liaquat Ali Khan : Sir, I do not think it is necessary for me to say anything more after what has been said by my Honourable friend, Sardar Abdur Rab Nishtar. As he has pointed out, there is no question of taking away any powers from the Constituent Assembly. The Constituent Assembly will continue to enjoy all the sovereign powers that it does enjoy and the mere fact that we extend the time by one year, that is, up to 31st March, 1949, does not make it an impotent body. The Constituent Assembly will continue to enjoy all the powers. In the meantime, we provide a machinery whereby in case of an emergency action may be taken and the State of Pakistan may continue to run smoothly.

Mr. President : The question is :

“That the Bill to amend the Indian Independence Act, 1947, be taken into consideration.”

The motion was adopted.

Clauses 2 and 1 were added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Mr. Liaquat Ali Khan : Sir, I move :

“ That the Bill be passed.”

Mr. Dharendra Nath Datta : Sir, the only thing that I would like to say with regard to this motion now that the Bill is going to be passed is that I hope and trust that this period of one year shall not be further extended. I hope it will be the last extension.

Mr. President : You might change your mind !

The Honourable Mr. Abdul Hamid (East Bengal : Muslim) : Sir, nobody knows what will happen in the future. I am not a prophet and I think we should not provide for the future. The future will look after itself. Let us hope that it will not be necessary for us to extend the period.

The Honourable Mr. Liaquat Ali Khan : Sir, I have nothing more to say except this that I am afraid I am not a prophet and therefore I cannot foresee the future.

Mr. President : The question is :

“ That the Bill be passed.”

The motion was adopted.

THE GOVERNMENT OF INDIA (AMENDMENT) BILL

The Honourable Mr. Liaquat Ali Khan (Prime Minister and Minister for Defence) : Sir, I beg to move for leave to introduce a Bill to amend the Government of India Act. The object of this Bill is to make certain changes in the list of subjects that are in the Government of India Act, 1935. This is really in accordance with the agreement that has been arrived at between the provinces and the Centre. The Honourable the Finance Minister in his speech pointed out that for two years the sales tax was to be the Central subject.

Then there is the question of Succession Duties. That has also by agreement been made a Central subject.

Now with regard to this Bill also there is really nothing new about it and I could not give notice of it earlier or move it earlier in the House because of the reasons that I gave with regard to my first motion, but this Bill also has been in the hands of the Honourable Members since the last evening. I requested the Office to circulate this Bill to the Members in spite of the fact that it was not on the notice paper and it could not be put on the notice paper. The importance of passing this Bill and the urgency is even greater than in the case of the other Bill, I mean, today because unless this Bill is passed into law and unless these changes are made in the Government of India Act the House cannot proceed with the Finance Bill, with the proposals for taxation with regard to Sales Tax, and, therefore, it is necessary, that before we take up the discussion of the Finance Bill and other taxation measures these changes must be made in the Government of India Act. Therefore, Sir, I hope the House will condone this short notice which was due to the reasons that I have given just now and will pass this Bill into law before the House adjourns today.

Mr. Dharendra Nath Datta (East Bengal : General) : I oppose the motion and my reason is this....

Mr. President : (Quaid-i-Azam Mohammad Ali Jinnah) : I have not yet put the motion before the House.

Motion moved :

“That leave be granted to introduce a Bill to amend the Government of India Act.”

***Mr. Dharendra Nath Datta** : I oppose the motion. My reason is that we have not got copies of the Bill. We had copies of the other Bill with us long before. With regard to this Bill we did not get copies of the Bill and we have not applied our minds; so, I think, Sir, that time should be given to us to apply our minds to the provisions of this Bill so that we may have an opportunity of taking part in the discussion of the Bill.

Mr. President : Is it your objection that this Bill cannot be entertained by the House because the notice has not been given according to the rules fixing the time?

The Honourable Mr. Liaquat Ali Khan : May I just point out that the copies of the Bill were sent to Honourable Members yesterday?

Mr. President : What is your objection? Is it confined to any rule which lays down the period of notice to be given?

Mr. Dharendra Nath Datta : The rule is this : “If a motion for leave to introduce a Bill is opposed, the President, after permitting, if he thinks fit, a brief explanatory statement from the Member who moves and from the Member who opposes the motion, may, without further debate, put the question.”

Mr. President : What is the period mentioned there?

Mr. Dharendra Nath Datta : The period is not mentioned but the permission of the President is necessary.

Mr. President : Your objection is that the permission of the President is not sought; permission must be sought?

The Honourable Mr. Liaquat Ali Khan : Sir, I seek your permission to allow me to introduce this Bill.

Mr. President : I certainly will not be in a hurry to give permission on the mere asking but I had anticipated this before I came to the Chamber and I think this is one of those cases where the President should give that permission. There are numerous precedents in other Legislatures, especially the Indian Legislative Assembly and I assure you that at times we had no idea as to what the Bill was until the Honourable Member in charge came and asked leave to introduce the Bill and requested the President to permit him to do so irrespective of any time that may have been fixed. Here, I think the Honourable Members had the advantage of this Bill having been sent to them last night and I take it that they had plenty of time till five o'clock. It is not a very complicated Bill and if you delay it then you will face difficulties in the Finance Bill which will be coming before the Legislature. In these circumstances, I do think that I shall myself be a party to obstructing the passage of the Bill if I did not give permission and therefore I do give my leave and permission. (*Turning to Mr. Dharendra Nath Datta*). Now, what is your position? Do you oppose it? I thought you were supporting it? Now do you want to say anything?

*Speech not corrected by the Honourable Member.

Mr. Dharendra Nath Datta : I do not propose to say anything at this stage. I shall say what I have got to say when the motion will be for legislation.

Mr. President : The question is :

“ That leave be granted to introduce a Bill to amend the Government of India Act.”

The motion was adopted.

The Honourable Mr. Liaquat Ali Khan : Sir, I introduce the Bill and, with your permission, I would like to move the next motion.

I beg to move :

“ That the Bill to amend the Government of India Act be taken into consideration.”

Sir, I have nothing to add to what I have already said when I made the first motion asking for leave to introduce this Bill.

***Mr. Dharendra Nath Datta :** I rise on a point of order, Sir. My point of order is this. We have just passed rule 41F which says that “ when a Bill is introduced or on some subsequent occasion, the Member in charge may make one of the following motions in regard to his Bill, namely :

“ (a) that it be taken into consideration by the Assembly either at once or at some future day to be then specified.”

but the proviso is—

“ Provided that no such motion shall be made until after copies of the Bill have been made available for the use of Members, and that any Member may object to any such motion being made unless copies of the Bill have been so made available for 3 days before the day on which the motion is made, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule, allows the motion to be made.”

Sir, the Bill has not been made available for our use for three days and so I submit, Sir, this motion that the Bill be taken into consideration cannot be taken at this stage.

The Honourable Mr. Liaquat Ali Khan : Sir, may I just point out that the copies of the Bill have been in the hands of the Honourable Members since yesterday and now I request you, Sir, kindly to suspend this rule and allow me to make this motion and the House to take my Bill into consideration. This is nothing new, Sir, as you are aware, in the Central Legislative Assembly of undivided India there had been many occasions on which a Bill had been introduced and the next motion was that it be taken into consideration ; and the next motion that it be passed, have all been done at the same sitting and the Members did not have even copies of the Bill before them. Now here in this case the subject-matter of this Bill has been before the Honourable Members since the 28th of February because the Honourable the Finance Minister had told them in his speech as to what was intended to be done. The Bill itself has been in the hands of the Honourable Members for at least 24 hours and as I pointed out in the beginning the urgency of the matter is such that this House must dispose of this business if the business of the Constituent Assembly, when it meets as Legislature, is to continue. Otherwise, I think, that the Constituent Assembly would really be creating a deadlock if it did not pass this Bill today.

Mr. President : I have already said what I have to say. The three days' notice, upon which the Honourable Member so much insists, he had—I think, all the Honourable Members had notice of it for more than three days, when they listened to the speech of the Honourable the Finance Minister on the 28th. There is nothing new in this Bill. Over and above that the Honourable Members

had the actual copy of the Bill last night and they had the whole of today and the whole of the night to ponder over it. And, therefore, it cannot be urged that it is such a complicated Bill that it requires a prolonged study of it. It is an essential Bill. Then what ground can I have for not suspending this rule. I see no ground and if I did not suspend the rule and give permission, the result will be obstruction of the Finance Bill. And I think I shall not be justified in adopting that course and be a party to such a result. Therefore, I have no other course—and there are precedents to be followed—but to grant my permission and suspend the rule.

The motion now is :

“That the Bill to amend the Government of India Act be taken into consideration.”

The motion is now open to discussion.

(No Honourable Member came forward to speak.)

Mr. President : The question is :

“That Bill to amend the Government of India Act be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Mr. President : The question is :

“That Clause 3 stand part of the Bill.”

***Mr. Dharendra Nath Datta :** Sir, I have got an amendment to move to clause 3.

The Honourable Mr. Liaquat Ali Khan : Have you given notice ?

Mr. Dharendra Nath Datta : No, Sir, but under rule 41-NN when a motion that a Bill be taken into consideration has been carried, any Member may propose an amendment of the Bill. I have not given notice of the amendment.

Mr. President : I have not got a copy of the amendment you wish to move. You may at least supply a copy to me.

Mr. Dharendra Nath Datta : My amendment is this.

Mr. President : Read it out.

Mr. Dharendra Nath Datta : Will you allow me, Sir, just a minute to write the amendment ; just two minutes to write the amendment.

Mr. President : No, I am not willing to allow any Honourable Member to do that. I think you might have at least given a copy of the amendment to the President. You had plenty of time. Now you tell me that your amendment is not ready. The House should now wait until you make up your mind and write your amendment. I do not think that is fair to the House. How can I say to the House wait, wait, the Honourable Member has now got to write his amendment.

Mr. Dharendra Nath Datta : Sir, I want to speak, with regard to this motion. Sir, this motion is that taxes on the sale of goods shall be levied and collected by the Federation, but such portion of the net proceeds in any financial year as may be prescribed shall not form part of the revenues of the Federation. In this section ‘prescribed’ means prescribed by Order of the Governor-General. It has been stated by the Finance Minister, Sir, that taxes on sale of goods has been made the central subject but certain amount—portion—of it shall be assigned to the Provinces. But, Sir, we do not know

the exact amount which will be assigned to Provinces. Because the words used here are such portion of the net proceeds in any financial year as may be prescribed ('prescribed' means prescribed by Order of the Governor-General). The House must know what portion of the sale proceeds shall be assigned to the Provinces.

My submission to the House is this that at least half of the net proceeds shall be assigned to the Provinces. But the House is in the dark with regard to that and in the statement of the Minister in charge of Finance is mentioned that certain amount shall be prescribed. I want to know what that amount is. I think, Sir, half of the amount is to be prescribed. That is the amount which I want to move.

The Honourable Mr. Abdul Hamid (East Bengal : Muslim) : Sir, I do not think that will be to the interests of the Provinces. I understand that a promise has been given that the Provinces will get the amount that ordinarily is realized from these taxes. The Centre hopes, by better administration, they will be able to realize more. That portion will go to them. The idea is that by avoiding duplication of collecting machinery and better administration will give them more. That part will certainly go to the Centre. The Honourable Member is making a motion which will be to the detriment of the Provincial interest and therefore I oppose it.

The Honourable Mr. Liaquat Ali Khan : Sir, my friend in his zeal to safeguard the interests of the Provinces is really doing harm to them. If he can get the Provinces agree to this proposal I will request the Honourable the Finance Minister of Pakistan Government to accept that proposal without any hesitation. As a matter of fact the Honourable the Finance Minister has, in his speech, and subsequently indicated as to the terms on which this allocation is to be made and in the case of each Province the principles are different. That had been agreed upon. And, therefore, it could not be embodied in one paragraph here as to what would be the principles that would apply in the case of Bengal, Punjab, Sind, North-West Frontier and so on and therefore I would request him not to persist with this motion of his otherwise the Provinces may say God save us from such friends.

Mr. Dharendra Nath Datta : I am glad to hear that.

Mr. President : The question is :

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 to 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Mr. Liaquat Ali Khan : Sir, I move :

"That the Bill be passed."

Mr. Dharendra Nath Datta : I hope and trust that the period given is not extended.

Mr. President : The question is :

"That the Bill be passed."

The motion was adopted.

Mr. President : This House now stands adjourned *sine die*.

The Assembly then adjourned *sine die*.